

**EXTREMELY HAZARDOUS MATERIALS TRANSPORTATION SECURITY ACT OF 2004**

**HON. EDWARD J. MARKEY**

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 13, 2004*

Mr. MARKEY. Mr. Speaker, today I am introducing the "Extremely Hazardous Materials Transportation Security Act of 2004", a bill to improve safety within our system of transporting dangerous chemicals by rail, truck or other vehicle as part of daily commerce in the United States. The bill is cosponsored by Reps. MCCARTHY of Missouri, Rep. GRIJALVA of Arizona, Rep. CASE of Hawaii, Rep. OWENS of New York, Rep. LEE of California, Rep. TIERNEY of Massachusetts, and Reps. JACKSON-LEE and GONZALEZ of Texas.

The terrorist attacks of September 11, 2001, have led to significant changes in the level of attention paid to safety and to anti-terrorist measures in this country. Nevertheless, every day tank cars pass through our urban centers that carry enough chlorine to kill 100,000 people in half an hour. Although some of these shipments must travel the routes they are currently using, others could easily be safely rerouted.

We already know that these shipments are attractive terrorist targets. An Ohio-based Al Qaeda operative has already been arrested and pled guilty for plotting to collapse a bridge in New York City or derail a train in DC. And in April, just north of downtown Boston, a railroad tank car carrying 20,000 gallons of hydrochloric acid started to leak close to the Sullivan rapid transit station and just yards away from I-93, causing major chaos to the morning commute. Had that incident been a successful terrorist attack rather than an accident that harmed no one, many lives could have been lost.

The bill we are introducing today would require additional security measures for all shipments of extremely hazardous materials, and also calls for the re-routing of extremely hazardous materials shipments going through areas of concern if there is a safer route available, and if the shipment's origination or destination is not located within the area of concern.

Specifically, it would require:

- physical security measures surrounding shipments of EHM such as extra security guards and surveillance technologies
- pre-notification of EHM shipments for law enforcement authorities

- coordination between Federal, State and local authorities to create a response plan for a terrorist attack on an EHM shipment

- the use of currently available technologies to ensure effective and immediate communication between shippers of EHM, law enforcement authorities and first responders

- re-routing of shipments of EHM that currently travel through areas of concern (as defined by the Secretary) only if there is a safer route available, and only if the shipment's origination or destination is not located within the area of concern

- training for employees who work with EHM shipments

- whistleblower protections for those disclosing violations of security rules or regulations

civil and administrative penalties for those who fail to comply with the regulations

I am attaching a letter of support for this bill from Chief Carter of the Massachusetts Bay Transportation Authority (MBTA) Police. While this letter addresses a particular hydrochloric acid spill that occurred April 14 in the Boston area, it is indicative of the difficulty and danger that extremely hazardous chemical shipments can pose to our first responder community wherever they live and work. It has also been endorsed by Greenpeace, Clean Water Action, Friends of the Earth, National Environmental Trust, the Public Interest Research Group, and 14 chemical companies.

I urge my colleagues to join me in seeking to upgrade our defenses in this area so that none of our constituents are ever exposed to a catastrophic chemical release simply because we failed to take these simple steps.

MBTA POLICE,

*Boston, MA, July 12, 2004.*

Re H.R. \_\_\_\_\_, *A Bill to Direct the Secretary of Homeland Security to Issue Regulations Concerning the Shipping of Hazardous Material Within, Through, or Near Regions Designated by the Secretary as Areas of Concern*

HON. EDWARD MARKEY,

*House of Representatives, Rayburn House Office Bldg., Washington, DC.*

DEAR CONGRESSMAN MARKEY: Thank you for inviting me to review and comment upon the proposed H.R. \_\_\_\_\_ which would direct the Secretary of Homeland Security to draft regulations concerning transportation of hazardous materials through or near geographic areas of concern. I offer my full support for the bill.

The proposed bill provides a critical framework to strengthen the security of the now extremely vulnerable hazardous material shipment process. Its passage would create reasonable regulation over who is transporting dangerous shipments, how they are transported, and where they are allowed to travel. This bill is but one part of a larger, ever developing process of securing the safety of our citizens and protecting our municipalities.

Public mass transit and cargo transport are the most critical systems of commerce in the United States of America. In Boston, Massachusetts alone, every day, over six hundred thousand persons utilize the Massachusetts Bay Transportation Authority's (MBTA) system of buses, subways, commuter rail, water shuttles, and para transit services. Each of those persons, and many who do not use mass transit, live, work and travel in close proximity to modalities which constitute hazardous material transport in the form of freight trains, rail tankers, tractor trailers, and harbor bound ships. Each of those forms of transport poses a unique and disturbing challenge to public safety agencies in preventing either an accidental or intentional discharge of dangerous cargo into the local environment.

For example, on April 14, 2004, a railroad tanker car carrying twenty thousand (20,000) gallons of hydrochloric acid developed a leak while passing quite literally within yards of the Sullivan Square MBTA subway station. This accident required the immediate response of virtually the entire resources of the MBTA Police Department's working officers to monitor pedestrian and vehicle traffic in and around the station. Also, the resources of the Boston Police Department, Fire Department, and Emergency Medical Services were put to the test in managing traffic, containing the leak, off-loading the remaining cargo, and identifying persons who may have been injured by exposure. For

virtually the entire day, the transit infrastructure and most critical city services were critically impeded. Perhaps the most troubling part of that incident is that every day similar cargo is transported on the same rail cargo line, immediately adjacent to commuter rail lines and roadways with no regulation or prior warning of the potential hazard.

Amazingly, no one was injured or killed as a result of the April 14 leak, but the incident pointed to a threat to the safety and lives of our citizens. Every day, across our nation, local residents are exposed to potential harm by passage through their communities of unknown and unregulated cargo, chemicals, and hazardous materials. Mass transit modalities share rail lines with dangerous cargo trains; highways and urban centers routinely see cargo trucks and tankers alongside cars, school buses, and public buildings; and working harbors, like Boston and New York, receive huge tankers of liquefied natural gas or similarly volatile cargo. There is, however, no framework to uniformly identify and secure the extremely vulnerable hazardous material shipment process.

In the shadow of the events of September 11, 2001, we in the law enforcement professions have had to refocus our efforts from crime prevention to include identification of weaknesses in local infrastructure that lends itself to either accidental or intentional harm. Part of the difficulty is that we are hardly ever forewarned, nor do we have the authority to control the hazardous substances that travel through our communities.

In closing, thank you for inviting my comments on this important issue. Please be assured of my continued support for your efforts on behalf of the Commonwealth of Massachusetts and the United States of America.

Sincerely,

JOSEPH C. CARTER, *Chief.*

**PERSONAL EXPLANATION**

**HON. MICHAEL G. OXLEY**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 13, 2004*

Mr. OXLEY. Mr. Speaker, I was unavoidably absent from the floor during rollcall votes 360 (Hefley amendment to H.R. 4755), 361 (Sherman motion to recommit H.R. 4755), and 362 (H.R. 4755 final passage), taken last night. Had I been present, I would have voted "no" on rollcall votes 360 and 361 and "aye" on rollcall vote 362.

**PERSONAL EXPLANATION**

**HON. DENNIS MOORE**

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 13, 2004*

Mr. MOORE. Mr. Speaker, on July 12, 2004, my flight was delayed due to inclement weather causing me to miss rollcall vote Nos. 359 and 360, the Holt and Hefley amendments to the legislative branch appropriations bill, H.R. 4755. The Holt amendment would increase funding for the General Accounting Office (GAO) to establish a Center for Science and Technology Assessment within the GAO. The Hefley amendment would reduce all of the discretionary appropriations in the bill by 1 percent. Had I been present, I would have voted "yea" on the Holt amendment and "nay"